bacher v. *Ware,* 37 Ia. 85; *Sturm* v. *Boker,* 14 Sup. Ct. Rep. 99; *Reinstein* v. *Watts,* 84 Me. 139; *Butler* v. *Greene,* 49 Neb. 280, 68 N. W. 496; *Lance* v. *Griner,* 53 Pa. St. 204. Even granting defendant to be a private carrier, it would seem that according to some holdings, he had increased his liability to that of a common carrier by his agreement to carry safely. *Powers* v. *Davenport,* 7 Blackf. (Ind.) 497, 43 Am. Dec. 100; *Fish* v. *Chapman & Ross,* 2 Ga. 349, 46 Am. Dec. 393. The court, however, attempts to distinguish the case, under discussion, from cases where private carriers had increased their liability by contract, by holding the defendant's agreement to carry safely to be nothing more than an assurance, on its part, that it would use such care and skill as one in that line of business would be expected to employ.

BAILMENTS—LOSS OF GOODS RESULTING FROM VIOLATION OF ORDINANCE.—Defendant in error sent to plaintiff in error some articles to be laundered. While in the possession of the laundry company, the articles were destroyed by fire, which entered the building of plaintiff in error through windows which were not protected by fireproof shutters, as required by city ordinance. The ordinance provided that "all brick buildings, except dwelling houses, school houses, churches, and all strictly fireproof buildings, shall have fireproof shutters on every entrance on the rear walls and courts, with openings within forty feet of each other." In this action to recover the value of the articles destroyed, *Held,* that the ordinance was intended primarily for the protection of the public and that plaintiff in error was, therefore, not liable for the loss of the goods,—the violation of the ordinance, by plaintiff in error, being of "no evidential value upon the question of negligence." *Frontier Steam Laundry Co.* v. *Connolly* (1904), — Neb. —, 101 N. W. Rep. 995.

It is frequently difficult to decide whether an ordinance is intended for the protection of individuals or for that of the public only. If the ordinance is not for the benefit of individuals, but is intended to protect only the public, a violation thereof furnishes no ground of action to a private individual as against the one charged with violating the ordinance. Redress must be had from the municipality. *Flynn* v. *Canton Co. of Baltimore,* 40 Md. 312; *Heeney* v. *Sprague,* 11 R. I. 456; *Vandyke* v. *City of Cincinnati, and Harbeson,* 1 Disney (Ohio) 532; *Taylor* v. *Lake Shore etc. R. R. Co.,* 45 Mich. 74; *Kirby* v. *Boylston Market Assn.,* 14 Gray (Mass.) 249; *Moore* v. *Gadsden,* 93 N. Y. 12. It might be observed, however, that most of the cases supporting this principle seem to be instances where action was brought against a land owner who had allowed snow or ice to accumulate in front of his premises, contrary to city ordinance, whereby passersby slipped and were injured. In the case under discussion, there was a dissenting opinion, one judge holding that the ordinance was as much applicable to individuals, in the matter of protection, as to the public as a whole. Where ordinances are for the benefit of individuals, there exists a conflict of authority as to the degree of negligence attributable to one whose violation of an ordinance has resulted in loss to another. Some cases go to the extent of holding such violation to be negligence per se. *Queen* v. *Dayton Coal and Iron Co.,* 95 Tenn. 458, 49 Am. St. Rep. 935; *Smith* v. *The Milwaukee Build. & Trad. Exchange et al.,* 91

Wis. 360, 51 Am. St. Rep. 912; *Billings* v. *Breinig,* 45 Mich. 65; *Messenger* v. *Pate et al.,* 42 Ia. 443; *Texas & Pacific Ry. Co.* v. *Brown,* 11 Tex. Civ. App. 503; *Karle* v. *Kansas City etc. R. R. Co.,* 55 Mo. 476; *Siemers* v. *Eisen,* 54 Cal. 418; *Correll* v. *B. C. R. & M. R. R. Co.,* 38 Ia. 120, 18 Am. Rep. 22; *Central R. R. Co.* v. *Curtis,* 87 Ga. 416, 13 S. E. 757. Other courts hold that the violation of an ordinance does not constitute negligence per se, but is competent evidence of negligence to be submitted to the consideration of the jury. *Knupfle* v. *Knickerbocker Ice Co.,* 84 N. Y. 488; *Conner* v. *Traction Co.,* 173 Pa. St. 602, 34 Atl. 238; *Clark* v. *Boston & Maine R. R.,* 64 N. H. 323; *Beck* v. *Vancouver Ry. Co.,* 25 Ore. 32; *Jeffs* v. *Rio Grande Western Co.,* 9 Utah 374; *Davis* v. *Guarnieri,* 45 Ohio St. 470, 4 Am. St. Rep. 548; *Hayes* v. *Mich. Cent. R. R. Co.,* 111 U. S. 228; *Hanlon* v. *South Boston Horse R. R.,* 129 Mass. 310. Even though defendant has violated an ordinance, that fact alone will not fix his liability unless such violation be shown to have proximately caused the injury of which complaint is made. *Philadelphia, Wilmington etc. R. R. Co.* v. *Stebbing,* 62 Md. 504; *Clisby* v. *Mobile & Ohio R. R. Co.,* 78 Miss. 937; *Selleck* v. *Lake Shore & Mich. South. Ry. Co.,* 93 Mich. 375; *Stone* v. *Boston & Albany R. R. Co.,* 171 Mass. 536; *Railway Co.* v. *Staley,* 41 Ohio St. 118; *Butcher* v. *W. Va. & P. R. R. Co.,* 37 W. Va. 180; *Sowles* v. *Moore et al,* 65 Vt. 322.

CONSTITUTIONAL LAW—EQUAL PROTECTION OF THE LAWS—DUE PROCESS—STATE'S CONTROL OF FISH AND GAME.—Appellee, a non-resident of Arkansas, owning land in that state, was indicted for taking fish and game on his own land in violation of Acts of 1903, p. 306, declaring it unlawful for any non-resident to hunt or fish at any season. *Held,* that the law is unconstitutional. *State* v. *Mallory* (1905), — Ark. —, 83 S. W. Rep. 955.

It will be difficult to reconcile the authorities applicable to this state of facts. On the one hand it is held, and this doctrine is supported by a strong dissenting opinion in the principal case, that inasmuch as, at common law, the state had the right of ownership over wild fish and game and the common law has not been changed by statute, it is within the power of the state to make such regulations as it thinks fit. *Geer* v. *Connecticut,* 161 U. S. 519, 40 L. Ed. 793; *Crgan* v. *State,* 56 Ark. 267; *Magner* v. *People,* 97 Ill. 320. In *McCready* v. *Virginia,* 94 U. S. 391, 24 L. Ed. 248, the Supreme Court upheld, as constitutional, a statute of Virginia forbidding non-residents to plant oysters within the jurisdiction, deciding that the discrimination was based on the exclusive right of the state over waters, and that the statute was not within the provision as to equal protection of the laws. See also *Peters* v. *State,* 96 Tenn. 682. There is undoubtedly great weight in the above decisions, but in none of them was it decided that a man could not exercise the rights pertaining to ownership in his own land. In the principal case the court say: "Nowhere do we find that in modern times has the absolute and unqualified ownership of such animals by the government, been exerted further than for the purpose of controlling the taking of the same and, on the other hand, we find frequent denials of that right," citing *Bristow* v. *Cormican,* 1878, L. R. 3 App. Cas. 641, 24 Moak 431, where it was held that the crown has no de jure